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Paper No. 4

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JUL 16 2002

OFFICE OF PETITIONS

In re Application of
Taylor, et al.
Application No. 10/014,718
Filed: November 7, 2001
Title: SYSTEM AND METHOD FOR
AUGMENTING KNOWLEDGE COMMERCE

DECISION ON PETITION

This is a decision on the petition filed on March 6, 2002, acknowledging that Figures SS1-1 to SS1-7 were not submitted on November 7, 2001 as a part of the original disclosure, but asserting that Figures SS2-30A, SS2-40, SS2-92-93, SS3-11, and SS6-2 were submitted on that date as a part of the original disclosure.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.53." This is not a final agency decision within the meaning of 5 USC 704.

Application papers in the above-identified application were filed on November 7, 2001. However, on January 28, 2002, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicant was notified that a filing date had been accorded in the above-identified application; however, Figures SS1-1 to SS1-7, SS2-30A, SS2-40, SS2-92-93, SS3-11, and SS6-2 appeared to have been omitted from the application.

In reply, applicant filed the instant petition. Applicant acknowledges that Figures SS1-1 to SS1-7 were not submitted on November 7, 2001 as a part of the original disclosure. However, applicant does contend that Figures SS2-30A, SS2-40, SS2-92-93, SS3-11, and SS6-2 were submitted on November 7, 2001 as a part of the original disclosure.

Papers filed in a patent application must be signed by:

- (1) A registered attorney or agent of record appointed in compliance with § 1.34(b);
- (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
- (3) An assignee as provided for under § 3.71(b) of this chapter; or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

¹ 37 CFR 1.33(b) (emphasis added).

Here, the instant petition was only signed by one of the applicants for patent, Matt Taylor. The other applicant, Gail Taylor, has not signed the petition. There is no indication in the record that a registered attorney has been appointed in the above identified application. In addition, there is no indication that there has been an assignment.

Accordingly, until the petition is signed by a party or parties as set forth in 37 CFR 1.33(b), the petition can not be considered on the merits.

Furthermore, because applicant has acknowledged that Figures SS1-1 to SS1-7 were not submitted as a part of the original disclosure on November 7, 2001, applicant has one of two options on renewed petition. Applicant can: (1) accord the filing date of March 6, 2002 (the date the acknowledged missing Figures SS1-1 to SS1-7 were submitted in the above-identified application), in which case Figures SS1-1 to SS1-7, SS2-30A, SS2-40, SS2-92-93, SS3-11, and SS6-2 will be used during the prosecution of the application, or (2) accept the filing date of November 7, 2001 as the filing date. However, in the event option (2) is chosen, Figures SS1-1 to SS1-7, SS2-30A, SS2-40, SS2-92-93, SS3-11, and SS6-2 will not be used during the prosecution of the application. Applicant may resubmit the matter included in Figures SS1-1 to SS1-7, SS2-30A, SS2-40, SS2-92-93, SS3-11, and SS6-2 as a Preliminary Amendment for consideration by the examiner before a first Office action on the merits.²

The failure to timely file a request for reconsideration will be treated as a constructive acceptance of the application as deposited in the USPTO on November 7, 2001.

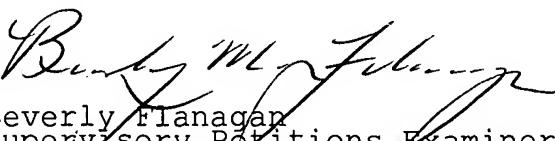
Further correspondence with respect to this decision should be addressed as follows:

By mail: Commissioner for Patents
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By hand: Office of Petitions
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Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at (703)305-0272.


Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

² However, in accordance with Section 608.02(h) of the Manual of Patent Examining Procedure, the Figures will not be entered if the examiner determines the Figures comprise "new matter".